

Lynelle J. Slivinski (LS-1210)  
OGLETREE, DEAKINS, NASH,  
SMOAK, & STEWART, P.C.  
521 Fifth Avenue, Suite 1700  
New York, NY 10017  
Telephone: (212) 292-4314  
[lynelle.slivinski@ogletreedeakins.com](mailto:lynelle.slivinski@ogletreedeakins.com)

Mark E. Schmitdke (IN Bar No. 1733-45)  
Eric P. Mathisen, (IN Bar No. 19475-71)  
OGLETREE, DEAKINS, NASH,  
SMOAK & STEWART, P.C.  
Two First National Plaza, 25<sup>th</sup> Floor  
20 South Clark Street  
Chicago, Illinois 60603  
[mark.schmidtke@ogletreedeakins.com](mailto:mark.schmidtke@ogletreedeakins.com)  
[eric.mathisen@ogletreedeakins.com](mailto:eric.mathisen@ogletreedeakins.com)

Attorneys for Defendant

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----  
JACK B. LEMONIK,

Plaintiff

-Against-

SUN LIFE INSURANCE & ANNUITY  
COMPANY OF NEW YORK,

Defendant  
-----

Case No. 08 CIV. 00900 (JSR)

**DEFENDANT'S RULE 26(a)(3)  
DISCLOSURES**

Pursuant to Fed. R. Civ. P. 26(a)(3), Defendant makes the following disclosures:

**A. WITNESSES PURUSANT TO RULE 26(a)(3)(A):**

**Witnesses Expected To Be Called**

(1) Dr. Andrew Schneider (address previously provided and may be contacted through Defendant's counsel); and

(2) Dr. Margaret O'Connor (address previously provided and may be contacted through Defendant's counsel).

**Witnesses That May Be Called If The Need Arises**

(1) Brian Sullivan or a records custodian of Defendant to authenticate the long term disability insurance policy at issue and the contents of the administrative record, in the event that such authentication is necessary (address previously provided and may be contacted through Defendant's counsel).

**B. WITNESSES PURSUANT TO RULE 26(a)(3)(B):**

Defendant may read depositions, in whole or part, of:

(1) Plaintiff, Jack Lemonik;

(2) Plaintiff's spouse, Celia Lemonik;

(3) Dr. Margaret O'Connor;

(4) Dr. Andrew Schneider;

(5) Dr. Susan Levine; and

(6) Dr. Lea Shea.

**C. DOCUMENTS AND EXHIBITS PURSUANT TO RULE 26(a)(3)(C):**

**Documents And Exhibits Expected To Be Offered**

- (1) The entire administrative record (including the claim file and policy documents) Bates numbered as Sun Lemonik 000001 – Sun Lemonik 001467;
- (2) The supplemental report and CV of Dr. Andrew Schneider and all information reviewed and relied upon for said report;
- (3) The supplemental report and CV of Dr. Margaret O'Connor and all information reviewed and relied upon for said report;
- (4) The September 13, 2006 report and August 22, 2006 raw data of Dr. Joel Morgan;
- (5) The January 17, 2008 [incorrectly noted as January 17, 2005] report of Dr. Joel Morgan; and
- (6) The May 7, 2008 report of Dr. Paul Moberg.

**Documents And Exhibits That May Be Offered If The Need Arises**

- (1) Plaintiff's answers to interrogatories and responses to request for production of documents;
- (2) Documents produced during discovery by Plaintiff or any third parties. To the extent third party discovery has not yet been received, it will be forwarded to Plaintiff's counsel upon receipt;
- (3) Deposition transcripts and exhibits attached thereto for Dr. Margaret O'Connor, Dr. Andrew Schneider, Dr. Susan Levine, and Dr. Leo Shea; and

(4) Affidavit authenticating the administrative record (to be prepared if the parties cannot stipulate to the admissibility and/or authenticity of the administrative record).

Respectfully submitted:

By: s/ Eric P. Mathisen  
One of Defendants' Attorneys

Mark E. Schmitdke (IN Bar No. 1733-45)  
Eric P. Mathisen, (IN Bar No. 19475-71)  
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.  
Two First National Plaza  
Twenty-Fifth Floor  
20 South Clark Street  
Chicago, Illinois 60603-1891  
(312) 558-1220

Dated: August 18, 2008

**CERTIFICATE OF SERVICE**

The undersigned attorney hereby certifies that on August 18, 2008, the foregoing Rule 26(a)(3)

Disclosure was served via email and U.S. mail upon:

Evan Schwartz, Esq.  
Brad A. Schlossberg, Esq.  
Quadrino Schwartz  
666 Old Country Road – Ninth Floor  
Garden City, New York 11530

**Ogletree, Deakins, Nash, Smoak & Stewart, P.C.**  
Attorney for Defendants

s/ Eric P. Mathisen  
Mark E. Schmidtke, Indiana 1733-45  
Eric P. Mathisen, Indiana 19475-71  
Two First National Plaza, 25th Floor  
20 South Clark St.  
Chicago, IL 60603  
Tel: (312) 558-1220  
Fx: (312) 807-3619  
[mark.schmidtke@ogletreedeakins.com](mailto:mark.schmidtke@ogletreedeakins.com)  
[eric.mathisen@ogletreedeakins.com](mailto:eric.mathisen@ogletreedeakins.com)

6583743.1 (OGLETREE)